IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

First Appeal No. 362/2001
(Old No. 506 of 1996)

Mussoorie Dehradn Development
Authority, Dehradun, through its
Secretary

…… Appellant.

Versus

1- Arun Tomar
2- Anurag Tomar
Both sons of Dharambir Singh Tomar
R/O A-1030, Indira Nagar Lucknow.
3- Arvind Tomar S/o Baldeo Singh Tomar
Alias Balbir Singh Tomar
R/o New Arya Nagar, Jail Road
Meerut.
4- Collector/Special Land acquisition
Officer Dehradun …. Respondents.

Ms. Pooja Banga, holding brief for Sri S. Dhulia, Senior Advocate,
Learned counsel or the appellant.
Shri Ashok Aggarwal, learned Standing Counsel for the State.

Coram: Hon'ble P.C. Verma,J.
Hon'ble B.C. Kandpal, J.

This appeal has been filed by the appellant-Mussoorie Dehradun Development Authority, Dehradun against the award dated 14-6-1996 made by the Additional District Judge/Special Judge, (E.C. Act), Dehradun in Land Acquisition Reference No. 140 of 1990 Arun Tomar and others Versus Collector made under Sec. 18 of the Land Acquisition Act for enhancement of the compensation.

2- The ground on which this appeal has been pressed is that the acquiring body, i.e., Mussorrie Dehradun Development Authority (for short MDDA) was not made party in the reference proceedings and hence no notice was sent to the MDDA and it was not heard by the reference court. The MDDA was necessary party to the reference proceedings, as the compensation was to be paid by it. In view of the law laid down by the Apex Court in

(1995) 2 Supreme Court Cases page 326, U.P. Awas Evam Vikas Parishad versus Gyan Devi (Dead) by Lrs. And others, the authority/company has right to appear and adduce evidence in proceedings before reference court for determination of compensation.

3- Therefore, on this point we allow this appeal and remand the matter to the reference court to decide there reference afresh. The Reference Court will issue notice to the MDDA and opportunity shall be given to it to put forth its contentions and to adduce evidence in support of its. Till the decision in the reference case, the amount, if any, deposited in this appeal shall remain deposited and the payment made shall not be recovered.

4- Since the matter is pending disposal for a long period, i.e., from the year 1986, the reference court is directed to decide the case within a period of 45 days from the date of production of certified copy of this order.

5- Let the record of the case be immediately sent back to the court concerned.

(B.C. Kandpal, J.) **(P.C. Verma, J.)**

05-06-2006
ISB